



DEPARTMENT OF VETERANS AFFAIRS

PRIVACY ACT OF 1974; SYSTEM OF RECORDS

AGENCY: Department of Veterans Affairs (VA), Office of Resolution Management, Diversity and Inclusion (ORMDI).

ACTION: Notice of a New System of Records.

SUMMARY: Office of Resolution Management, Diversity and Inclusion (ORMDI) at the Department of Veterans Affairs (VA) is establishing a new System of Records, entitled Diversity and Equal Employment Opportunity (EEO) Program Records (203VA08), to manage and execute the Equal Employment Opportunity (EEO) Program, Harassment Prevention Program (HPP), Reasonable Accommodation/Personal Assistance Services (RA/PAS) Program, Reasonable Accommodation/Religious Observance, Practice or Belief (hereinafter “Religious Beliefs”) Program, External Civil Rights Discrimination Program (ECP), and VA’s Diversity and Inclusion programs, including building a model EEO program integrating Affirmative Employment, Special Emphasis, and Religious Accommodations.

DATES: Comments on this new system of records must be received no later than 30 days after date of publication in the Federal Register. If no public comment is received during the period allowed for comment or unless otherwise published in the Federal Register by VA, the new System of Records will become effective a minimum of 30 days after date of publication in the Federal Register. If VA receives public comments, VA shall review the comments to determine whether any changes to the notice are necessary.

ADDRESSES: Comments may be submitted through www.Regulations.gov or mailed to VA Privacy Service, 810 Vermont Avenue, NW, (005R1A), Washington, DC 20420.

Comments should indicate that they are submitted in response to the Diversity and Equal Employment Opportunity (EEO) Program Records (203VA08) system of records. Comments received will be available at [regulations.gov](https://www.regulations.gov) for public viewing, inspection or copies.

FOR FURTHER INFORMATION CONTACT: Privacy Officer, Office of Resolution Management, Diversity and Inclusion (ORMDI), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, email: ormdprivacy@va.gov.

SUPPLEMENTARY INFORMATION: ORMDI is responsible for administering the Harassment Prevention Program (HPP), Reasonable Accommodation/Personal Assistance Services (RA/PAS) Program, and VA's Diversity and Inclusion (D&I) Programs, including religious and other accommodations, Reasonable Accommodation/Religious Observance, Practice or Belief (hereinafter "Religious Beliefs") Program and External Civil Rights Discrimination Program (ECP) within VA. ORMDI is establishing the Diversity and Equal Employment Opportunity (EEO) Program Records system of records to manage and execute these programs at separate ORMDI District Offices and facilities located in various geographic areas.

Signing Authority

The Senior Agency Official for Privacy, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Kurt D. DelBene, Assistant Secretary for Information and Technology and Chief Information Officer, approved this document on March 17, 2022 for publication.

Dated: May 17, 2022.

Amy L. Rose,

Program Analyst,

VA Privacy Service,

Office of Information Security,

Office of Information and Technology,

Department of Veterans Affairs.

SYSTEM NAME AND NUMBER: Diversity and Equal Employment Opportunity (EEO)

Program Records - 203VA08

SECURITY CLASSIFICATION: Unclassified.

SYSTEM LOCATION: Records are maintained at VA field facilities and the Office of Resolution Management, Diversity and Inclusion (ORMDI), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. For addresses of VA field facilities, see Appendix I or www.va.gov/find-locations.

SYSTEM MANAGER(S): Privacy Officer, Office of Resolution Management, Diversity and Inclusion (ORMDI), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, email: ormdiprivacy@va.gov.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

1. 5 U.S.C. 2301, note, *Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (NoFear)*, as amended by *Elijah E. Cummings Federal Employee Antidiscrimination Act of 2020*.
2. 29 U.S.C. 621 et seq., *Age Discrimination in Employment*.
3. 29 U.S.C. 791 et seq., *Rehabilitation Act of 1973*
4. 42 U.S.C. 1201 et seq., *Title 1 of the Americans with Disabilities Act (ADA) of 1990 and the ADA Amendments Act of 2008 (ADAA)*.
5. 42 U.S.C. 2000d, *Title VI, Civil Rights Act of 1964*.
6. 42 U.S.C. 2000e et seq., *Title VII, Civil Rights*
7. 42 U.S.C. 2000e–16, *Employment by Federal Government*
8. 42 U.S.C. 2000e(k), *Pregnancy Discrimination Act (PDA) of 1978*.
9. 42 U.S.C. 4151 et seq., *Architectural Barriers Act*
10. 42 U.S.C. 6101 et seq., *Age Discrimination Act of 1964*, as amended.
11. 29 CFR § 1604, *Guidelines on Discrimination Because of Sex*
12. 29 CFR § 1605, *Guidelines on Discrimination Because of Religion*.

13. 29 CFR § 1611, *Privacy Act Regulations*.
14. 29 CFR § 1614, *Federal Sector Equal Employment Opportunity*. 29 CFR § 1630, *Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act*.
15. 38 CFR Part 15, *Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Veterans Affairs*.
16. 38 CFR Part 18, *Nondiscrimination in Federally-Assisted Programs of the Department of Veterans Affairs – Effectuation of Title VI of the Civil Rights Act of 1964*. 38 C.F.R. Part 18a, *Delegation of Responsibility in Connection with Title VI, Civil Rights Act of 1964*.
17. 38 C.F.R. § Part 18b, *Practice and Procedure under Title VI of the Civil Rights Act of 1964 and Part 8 of This Chapter*.

PURPOSE(S) OF THE SYSTEM: The Diversity and Equal Employment Opportunity (EEO) Program Records system is used by ORMDI and VA facilities located in various geographic areas to administer and manage the following programs: Harassment Prevention Program (HPP); Reasonable Accommodation/Personal Assistance Services (RA/PAS) Program; Religious Observance, Practice or Belief (hereinafter “Religious Beliefs”) Program; External Civil Rights Discrimination Program (ECP); Diversity and Inclusion Program. This system does not duplicate any existing agency or government-wide system of records, even though some of the documents might also appear in other systems of records maintained for other purposes.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: Current and former VA employees, applicants for employment, contractors, interns, volunteers, visitors, and non-departmental individuals (for example, Veterans Volunteers and Visitors) who participate in the RA/PAS process, RA/Religious Beliefs process, or the complaint and appeal processes established by Title VI of the Civil Rights Act of 1964, Title IX of the

Education Amendments of 1972, the Age Discrimination Act of 1975, Section 504 of the Rehabilitation Act of 1973, Title 38, Code of Federal Regulations, Chapter 1, Parts 15 and 18 and various Presidential Executive Orders, when the programs are under the jurisdiction of the VA, or request reasonable accommodations based on pregnancy (non-disability) or religion.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. Full name, year of birth, race, color, religion/religious beliefs, sex (male, female, sexual orientation, gender identify, including, but not limited to transgender), disability information, national origin, disability, genetic information, educational information, home address and telephone number, work or alternate telephone number, organizational and private email addresses, mailing and contact information for representatives and requested witnesses.
2. Detailed information and evidence about the allegations and requested relief, including complaints; correspondence; notes; forms; supporting material; statements of witnesses; reports of interviews, records of investigations, fact finding reports; recommendations; final decisions; request for reconsideration, reconsideration decisions.
3. HPP records, such as management notification; investigator's and coordinator's findings; determinations as to whether harassment occurred; preventive or corrective action taken; related correspondence; exhibits; and written follow up documents.
4. RA/PAS records, such as the type of accommodation; how the accommodation will assist the applicant or employee in performing the essential functions of the job; whether the request was granted as requested, an alternate accommodation was offered, or the request was denied; if denied, the reason for denial; detailed information and evidence including medical documentation provided by health care providers, such as limitation, diagnosis, prognosis, type of accommodation, nature of

the disability, the need for accommodation; request for reconsideration;

reconsideration decisions; correspondence; notes; forms; and supporting material.

5. ECP records, including notification to the facility; investigator findings; preventative or corrective action taken; written follow up documents.
6. D&I Program records, such as type of accommodation; why the accommodation is necessary, whether the request was granted as requested, an alternate accommodation was offered, or the request was denied; if denied, the reason for denial.

Note that if an individual's records in this system are used for a different purpose, those documents will be covered by the system of records governing that program and subject to the routine uses and other provisions of that system.

RECORD SOURCE CATEGORIES: Current and former VA Federal employees or applicants for VA employment, representatives, Veterans, VA Administrations/Facilities, participants in the RA/PAS, RA Religious Beliefs, or other accommodations processes, participants in the complaint and appeal processes established by Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, Section 504 of the Rehabilitation Act of 1973, Title 38, Code of Federal Regulations, Chapter 1, Parts 15 and 18 and various Presidential Executive Orders.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

1. Congress: VA may disclose information to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

2. Data breach response and remediation for VA: VA may disclose information to appropriate agencies, entities, and persons when:

- VA suspects or has confirmed that there has been a breach of the system of records.
- VA has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, VA (including its information systems, programs, and operations), the Federal Government, or national security.
- the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with VA's efforts to respond to the suspected or confirmed breach or to prevent, minimize or remedy such harm.

3. Data breach response and remediation for another Federal agency:

VA may disclose information to another Federal agency or Federal entity, when VA determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in:

- responding to a suspected or confirmed breach, or
- preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

4. Law Enforcement: VA may disclose information that, either alone or in conjunction with other information, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to a Federal, state, local, territorial, tribal, or foreign law enforcement authority or other appropriate entity charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing such law.

5. DoJ for Litigation or Administrative Proceeding: VA may disclose information to the Department of Justice (DoJ), or in a proceeding before a court, adjudicative body, or other administrative body before which VA is authorized to appear, when:

- (a) VA or any component thereof
- (b) Any VA employee in his or her official capacity
- (c) Any VA employee in his or her individual capacity where DoJ has agreed to represent the employee, or
- (d) The United States, where VA determines that litigation is likely to affect the agency or any of its components

is a party to such proceedings or has an interest in such proceedings and VA determines that use of such records is relevant and necessary to the proceedings.

6. Contractors: VA may disclose information to contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for VA, when reasonably necessary to accomplish an agency function related to the records.

7. OPM: VA may disclose information to the Office of Personnel Management (OPM) in connection with the application or effect of civil service laws, rules, regulations or OPM guidelines in particular situations.

8. EEOC: VA may disclose information to the Equal Employment Opportunity Commission (EEOC) in connection with investigations of alleged or possible discriminatory practices, examination of Federal affirmative employment programs or other functions of the Commission as authorized by law.

9. FLRA: VA may disclose information to the Federal Labor Relations Authority (FLRA) in connection with:

- the investigation and resolution of allegations of unfair labor practices.
- the resolution of exceptions to arbitration awards when a question of material fact is raised.
- matters before the Federal Service Impasses Panel, and

- the investigation of representation petitions and the conduct or supervision of representation elections.

10. MSPB: VA may disclose information to the Merit Systems Protection Board (MSPB) in connection with appeals, special studies of the civil service and other merit systems, review of rules and regulations, investigation of alleged or possible prohibited personnel practices, and such other functions promulgated in 5 U.S.C. 1205 and 1206, or as authorized by law.

11. NARA: VA may disclose information to the National Archives and Records Administration (NARA) in records management inspections conducted under 44 U.S.C. 2904 and 2906, or other functions authorized by laws and policies governing NARA operations and VA records management responsibilities.

12. OMB: VA may disclose information to the Office of Management and Budget (OMB) for the performance of its statutory responsibilities for evaluating Federal programs.

13. Former Employee or Contractor, Legal Representatives: VA may disclose information to a former VA employee or contractor, as well as the authorized representative of a current or former employee or contractor of VA, in connection with matters before the EEOC, FLRA, or MSPB, or in litigation.

14. Witnesses. VA may disclose information to potential witnesses as appropriate and necessary to perform the agency's functions under 42 U.S.C. § 2000d, 29 CFR 1614, 29 C.F.R. § 1630, Sections 501, 504, and 505 of the Rehabilitation Act of 1973, 45 C.F.R. Subpart D § 86.31, and 42 U.S.C. § 6101-6107.

15. Sources of Information. VA may disclose information as necessary to any source from which additional information is requested in the course of processing a complaint or report of harassment.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS: Diversity and Equal Employment Opportunity (EEO) Program Records are maintained on paper and

electronically at VA facilities by supervisors, management officials, local reasonable accommodation coordinators, and other designated VA staff. Electronic records are also maintained in: Equal Employment Opportunity EcoSystem (EEOE), designated as E-Squared (E²), a comprehensive and secure repository for electronic records management to facilitate identification, retrieval, maintenance, routine destruction, report generation and compliance management; and Light Electronic Action Framework (LEAF), a technology and framework for rapid implementation and deployment of projects that require secure records management, including identification, retrieval, maintenance, routine destruction, report generation, policy compliance, and document routing to create a culture of transparency and accountability.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Names of individuals alleging discrimination, harassment, or reprisal or requesting RA/PAS or other reasonable accommodations. Case/tracking numbers.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained and disposed of in accordance with the schedule approved by the Archivist of the United States, General Records Schedule 2.3: Employee Relations Records, but longer retention is authorized for business use.

ADMINISTRATIVE, TECHNICAL AND PHYSICAL SAFEGUARDS: Technical controls include secure encryption using VA Personal Identity Verification (PIV) credential procedures, role-based authentication, firewalls, and virtual private networks which protect the data in transit and during storage. Physical and electronic access is limited to individuals who are properly screened and cleared on a need-to-know basis in the performance of their official duties. Administrative safeguards include mandatory annual information security training for all users on the responsibility each person has for safeguarding and protecting data confidentiality.

RECORD ACCESS PROCEDURES: An individual who seeks access to or wishes to contest records maintained under his or her name in this system must submit a written request to the Privacy Officer of the VA facility where the underlying incident or issue occurred.

CONTESTING RECORD PROCEDURES: (See Records Access Procedures above.)

NOTIFICATION PROCEDURES: Individuals seeking information concerning the existence and content of a record pertaining to themselves must submit a written request to or apply in person before the Privacy Officer of the VA facility where the underlying incident or issue occurred. Written requests should be signed and contain the individual's full name, mailing address, email address, telephone number, and the case number or case title.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

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